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10 JOBY, INC.

11
12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION
15

16 JOBY, INC.,

17 Plaintiff,

18 v.

19 TOCAD AMERICA, INC.,

20 Defendant.
21

Case No. 3:07-CV-06455 (SI)

**[PROPOSED] ORDER
GRANTING JOBY, INC.'S MOTION
FOR A PRELIMINARY INJUNCTION**

**Date: May 2, 2008
Time: 2:00 p.m.
Courtroom: 10, 19th Floor
The Honorable Susan Illston**

22 On May 2, 2008, plaintiff Joby, Inc.'s ("Joby") Motion for a Preliminary Injunction
23 against defendant Tocad America, Inc. ("Tocad") came on for hearing before this Court.

24 Based on the Complaint in this action, the Motion, Memoranda, Declarations and other
25 materials submitted by the parties, and the arguments of counsel at the hearing,

26 **THE COURT FINDS THAT:**

27 (1) Plaintiff is likely to succeed on the merits of its trade dress infringement (15
28 U.S.C. § 1125) claim;

(2) There is a high probability that plaintiff will be irreparably injured as a result of defendant's continued production, distribution, shipping, sale, advertising, marketing and promotion of the FlexPod and FlexPod Plus lines of flexible camera tripods and monopods; and

(3) The balance of hardships tips decidedly in plaintiff's favor since without an Order in its favor, plaintiff may lose sales and market share and will lose control over its reputation and goodwill associated with an in the trade dress used for the Gorillapod tripods, and defendant will not suffer significant injury as a result of the requested relief, and will not be deprived of any rights by entry of this Order.

IT IS THEREFORE ORDERED:

Defendant Toca America, Inc., and each of its representatives, agents, servants, employees, officers, directors, partner, attorneys, subsidiaries and all persons under its control or acting in concert or participation with it, who receive actual notice of this Order, are hereby enjoined and restrained, pending a final determination of this action, from engaging in further acts that infringe Joby's Gorillapod trade dress, including without limitation, further creation, production, distribution, shipping, sale, advertising, marketing and promotion of the existing FlexPod and FlexPod Plus designs, as shown in Exhibit A hereto, or any product design that appear confusingly similar to Joby's Gorillapod trade dress, as shown in Exhibit B hereto.

IT IS SO ORDERED.

Dated: _____, 2008

By: _____
The Honorable Susan Illston
United States District Court Judge